



MAIL

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
SEATTLE DIVISION

APR 11 2022

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

BY

DEPUTY

JONATHAN JENNINGS WALKER AND
ALL SIMILARLY SITUATED PERSONS,
PLAINTIFFS,

22 CV-00482-TL
CASE NO.

v.

COMPLAINT

MICROSOFT CORPORATION and THE
LAW ENFORCEMENT EXPERT SYSTEM-
ARTIFICIAL INTELLIGENCE TOOL PHOTODNA
by and through the MICROSOFT CORPORATION,
DEFENDANTS.

JURY TRIAL DEMANDED

I. JURISDICTION & VENUE

1. This is a civil action authorized by 42 USC § 1983, 42 USC § 1985, to redress the deprivation and conspiracy to deprive, under the Color of Law, the rights, liberties, and immunities secured by the Constitution of the United States and federal law. The Court has jurisdiction under 28 USC § 1331; § 1332 (a), (d)(2); § 1343(a), and § 1357. The Plaintiffs seek declaratory relief pursuant to 28 USC § 2201 - 2202. The Plaintiffs' claims for injunctive relief are authorized by 28 USC § 2283- 2284 and rule 65 of the Fed. R. Civ. Pro.

2. This Court has supplemental jurisdiction over all other claims under 28 USC § 1367 as such are so related to the claims in the action within the Court's original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution.

3. The Western District of Washington, Seattle Division is an appropriate venue under 28 USC § 1391(b)(2), (c)(2), and (d) because it is where the events giving rise to this claim occurred and where the Defendants are subject to the Court's personal jurisdiction.

COMPLAINT.

pg. 1

II. PLAINTIFFS

4. Jonathan Jennings Walker, Class Representative,
406 South 5th Street
Arkadelphia, Arkansas 71923

5. CLASS 'A' PLAINTIFFS INCLUDE ANY AND ALL PERSONS WHO HAVE BEEN SUBJECTS OF CyberTip reports made to NCMEC¹ on behalf of Microsoft based on Microsoft's use of PhotoDNA - A LAW ENFORCEMENT EXPERT SYSTEM Artificial Intelligence tool USED TO SCAN private data of citizens of the United States without warrants or good faith reasonings - and such CyberTip reports were used in the investigations against these Class Members, used to obtain search warrants against these Class Members, arrests of these Class members, prosecutions against these Class Members, and/or incarceration of these Class members by Law Enforcement and/or prosecutors.

6. CLASS 'B' Plaintiffs include any and all persons in the United States who have used Microsoft products to include messaging services, email services, or Cloud Storage Services of Microsoft in which Microsoft utilizes the PhotoDNA LAW ENFORCEMENT EXPERT SYSTEM Artificial Intelligence tool on to scan ~~for~~ the private data of the citizens of the United States without a warrant or good faith reason.

III. DEFENDANTS

7. Microsoft CORPORATION
ONE Microsoft Way
Redmond, Washington
98052-6399
8. PHOTO DNA, LAW ENFORCEMENT Automated EXPERT SYSTEM
Artificial Intelligence TOOL HOUSED AT Microsoft CORPORATION
ONE Microsoft Way
Redmond Washington 98052-6399

1. NCMEC is the National Center for Missing and Exploited Children, which is a non-profit clearing house authorized ~~to~~ by the Federal Government that receives over 60% of its funding from the Dept. of Justice and is an agent of Law Enforcement. SEE: US v. Ackerman, 831 F3d 1292, 1296-99 (10th Cir. 2016)

9. Each Defendant is sued individually and in their personal and official capacities. At all times mentioned in this Complaint each Defendant acted under the Color of Law.

IV FACTS

10. Microsoft Corporation (Microsoft) is a company based in the State of Washington.

11. Microsoft's Terms of Service states that the State of Washington is the governing law and all legal aspects relating to such shall be filed in King County Washington.

12. Microsoft is a Washington Corporation and therefore receives benefits in the State of Washington.

13. In 2018 Microsoft began receiving funds, on an ongoing basis, from the State of Washington for Law Enforcement purposes and was the recipient of such funds in April 2020.

14. Microsoft is a publicly traded Company of the private sector.

15. Microsoft is a large technology company which specializes in computer and internet based technology to include, but not limited to: Cloud Storage, Cloud Computing, online Services, cloud hosting, Software-as-a-Service (SaaS), Software design, business technology solutions, Law Enforcement technology, Facial Recognition technology, Application Program Interface technology, Expert systems technology, Artificial Intelligence Technology, hashing Technology, online communication technology, and gaming technology.

16. Microsoft is classified as an Electronic Service Provider (ESP).

17. One such Cloud Storage service Microsoft provides is called OneDrive, which allows users to upload digital files with the ability to access those files across devices.

18. When a user of OneDrive uploads a file to store on OneDrive, Microsoft utilizes a law Enforcement expert system - Artificial Intelligent tool called PhotoDNA to automatically intercept the digital file and scan the user's private data before storing it onto their OneDrive Account

19. In partnership and collaboration with the National Center For Missing and Exploited Children (NCMEC)² and Dr. Hany FARID, Professor of Computer Science, Microsoft helped develop the Law Enforcement tool PhotoDNA to automatically scan the digital data of United States Citizens to identify videos and images of Child Sexual Abuse Material (CSAM) through hashing technology.

20. ~~PhotoDNA~~ The Law Enforcement tool PhotoDNA is an automated computer system, also known as an expert system or an Artificial Intelligence, that is housed on the Microsoft Campus in Redmond Washington.

21. The Law Enforcement tool PhotoDNA automates the process of finding and reporting suspected CSAM by utilizing Access Control Lists (ACL) by way of an Application Program Interface (API), to send certain file formats for analyst.

22. The Law Enforcement tool indiscriminately seizes, searches, and hashes every image and video passing through Microsoft, and other ESP's, without any concerns about having reasonable "good faith" suspicion or probable cause to believe a crime or violation of the Microsoft Terms of Service has been committed here doing so.

23. The Law Enforcement tool PhotoDNA analyzes images and videos by breaking those down and applying an algorithm to create a hashvalue for that image or file. More specifically, the Law Enforcement tool PhotoDNA ~~the~~ takes that image or video, changes it to grey scale, breaking the file down into grids of quadrants of data, assigning hexadecimal color values ~~to~~ associated with hue and gradient of the file, to create a PhotoDNA hash value.

24. The Law Enforcement tool PhotoDNA creates these hash values automatically to compare a ~~known~~ United States Citizen's uploaded image or video to known CSAM.

25. This Law Enforcement tool, that Microsoft ~~houses~~ houses, PhotoDNA compares these created hashvalues against hashvalues of known CSAM that is hosted by NCMEC, which is limited by VPN to only registered Companies and Law Enforcement agencies.

2. NCMEC is both a government entity and a government agency. SEE: United States v. Ackerman, 831 F3d 1292 (10th Cir. 2016). NCMEC is ~~a~~ primarily financed by the United States Department of Justice and the Federal Government.

26. The Law Enforcement tool PhotoDNA's hashvalue comparison database is hosted at and maintained by NCMEC and the United States Department of Homeland Security Project VIC program.³

27. Microsoft makes available to "qualified" companies, through a Cloud Service, the Law Enforcement tool PhotoDNA, which is housed and based on the Redmond Washington Campus of Microsoft, free of charge.

28. The Law Enforcement tool PhotoDNA gives the ability to computer program developer, and others third-parties, to subscribe to the Law Enforcement tool and incorporate this Law Enforcement tool into their own products.

29. The Law Enforcement tool PhotoDNA has two (2) separate components: (1) hash matching service; and (2) reporting service that allows ESP's and Internet Service Providers (ISP) to make an AUTOMATED cyber tip report to NCMEC.

30. Users of the Law Enforcement tool PhotoDNA have a mandated legal obligation under federal law to report to NCMEC any alleged CSAM found using this PhotoDNA Law Enforcement tool.

31. When an ISP or ESP uses the Law Enforcement PhotoDNA tool to make a report to NCMEC, the ISP or ESP is the entity that is submitting the report to NCMEC's CyberTip Web portal, while the Law Enforcement PhotoDNA tool makes and writes the report without any human input and Microsoft routes the report to NCMEC on behalf of that ISP or ESP.

32. The Law Enforcement tool PhotoDNA, housed and based on Microsoft's Campus in Redmond Washington, is so widely used that this Law Enforcement tool screens most communications passing through most ISP's or ESP's in the United States.

33. ISP's and ESP's, to include Microsoft, use this Law Enforcement tool PhotoDNA to ~~perform~~ perform these automated searches without warrants or "Good faith."

3. NCMEC and the Department of Homeland security keeps the Law Enforcement tool PhotoDNA's hashvalues updated ~~regularly~~ and also disseminate to Microsoft, Law Enforcement agencies, and other "PARTNERS" updated hash values. SEE QUEEN v. State, 2019-3890, at *2-3, n.2 (FLA. App MAR 24, 2020). Plaintiff Walker prays the Court to take judicial notice of testimony of Arkansas State Police Special Agent Adam Pinner's testimony on March 30, 2022 in the Clark County Circuit Court Arkansas in State v. Walker, 1000-20-107.

34. The Law Enforcement tool PhotoDNA Limits its SEARCHES at the moment only to CSAM and does not search for any other type of banned media content such as killings, drugs, beheadings, or terrorist content, which is also banned on Microsoft services.

35. NCMEC and Law Enforcement agencies world wide have licenses to use the Law Enforcement tool PhotoDNA free of charge, to include the Arkansas State Police.

36. The Law Enforcement tool PhotoDNA is maintained, updated, housed, and based in Redmond Washington on Microsoft's Campus.

37. The Law Enforcement tool PhotoDNA is used by Law Enforcement agencies as a forensic tool, to include image and video review.

38. The Law Enforcement tool PhotoDNA has increased the Law Enforcements ability to detect CSAM with out warrants or good faith requirements,

39. Microsoft, ~~and~~ NCMEC, and the Department of Homeland Security's Project VIC continue to work together to improve the Law Enforcement tool PhotoDNA's database and technology.

40. Microsoft especially relies on partnerships with NCMEC and the International Centre for Missing and Exploited Children (ICMEC) to ensure that the Law Enforcement tool PhotoDNA evolves to meet new and changing needs to find and prosecute persons who have CSAM.

41. Microsoft uses the Law Enforcement tool PhotoDNA to provide NCMEC with aggregate reports summarizing the number of images matched to previously known hash values of CSAM.

42. To the knowledge and belief of the Plaintiff Walker, Microsoft receives federal grant money from the United States Department of Justice, Department of Homeland Security for law enforcement purposes to include, but not limited to, the funding of the Law Enforcement tool PhotoDNA in order to keep such expert system - Artificial Intelligence Law Enforcement tool free of charge for those ISPs and ESPs and Law Enforcement agencies that use its service.

43. Microsoft employs this law enforcement tool, PhotoDNA, on its own products to search all materials with which are transmitted over any of its network components and internet based programs, such as OneDrive, on its Campus in Redmond Washington.

44. Microsoft has had internal documents that discuss Microsoft's application of this law enforcement tool, PhotoDNA, in light of possible 4th Amendment limitations on Microsoft's actions and its knowledge and understanding of Microsoft's actions as an arm of law enforcement and Microsoft's intent to continue to assist law enforcement.

45. Microsoft's privacy statement states that Microsoft will access, transfer, disclose, and preserve personal data, including files in PRIVATE folders on ONE DRIVE when Microsoft has a **GOOD FAITH** belief that doing so is necessary.

46. On April 28, 2020 Microsoft ~~used~~ the law enforcement tool PhotoDNA to automatically search, scan, intercept, and create a hashvalue of an uploaded image to a OneDrive Account, Account ID 64000f49fbd16, without good faith belief or a warrant to do so.

47. In Microsoft's use of the law enforcement tool PhotoDNA on April 28, 2020 to scan any and all digital files passing through its network, the law enforcement tool PhotoDNA created a hashvalue for a file named d02c8b8d-6c1b-4f2e-a8a1-027fd57efedb.jpg, in which this law enforcement tool, PhotoDNA, found and identified this image as possible CSAM due to a possible hashvalue match, that was apparently being uploaded to the OneDrive Account 64000f49fbd16 from the I.P. address 173.216.82.149, which was the IP address registered to the Plaintiff, and Class Representative, Jonathan Jennings Walker.

48. Microsoft then used this law enforcement tool, PhotoDNA, on April 28, 2020, to automatically create a cyberTip report, in which was sent to NCMEC on behalf of Microsoft, with the 173.216.82.149 IP address, the file name d02c8b8d-6c1b-4f2e-a8a1-027fd57efedb.jpg, and stating that this image file is unconfirmed by anyone at Microsoft of whether or not such image was CSAM.

49. Due to Microsoft's use, without Good faith or a warrant to do so, of this law enforcement tool, PhotoDNA, to automatically ~~search~~ perform the illegal search, on May 11, 2020 NCMEC, after receiving the cyberTip from the law enforcement tool, PhotoDNA, on behalf of Microsoft, and without viewing the said image, sent this automatic

Law Enforcement tool PhotoDNA generated CyberTip to the Arkansas State Police.

50. Microsoft's use of this Law Enforcement tool PhotoDNA to preform the search and create a CyberTip report without any good faith reason or a warrant to do so, of a file supposedly uploaded to OneDrive from the Plaintiff Jonathan Jennings Walker's IP address, on August 26, 2020 the Arkansas State Police arrested the Plaintiff Jonathan Jennings Walker and executed a search warrant of the Plaintiff Jonathan Jennings Walker's home based off of this Law Enforcement tool PhotoDNA's automatic search and unconfirmed CyberTip report.

51. Microsoft's use of this Law Enforcement tool PhotoDNA to automatically search a file supposedly uploaded to OneDrive from the Plaintiff Jonathan Jennings Walker's IP address, the Prosecutor of Clark County Arkansas prosecuted the Plaintiff Jonathan Jennings Walker in case number 10CR-20-107 based in part on this unlawful search done by Microsoft's use of this Law Enforcement tool named PhotoDNA.

52. On March 30, 2022 the Plaintiff Jonathan Jennings Walker, due to being prosecuted based on Microsoft's use of this Law Enforcement tool PhotoDNA, the Plaintiff Jonathan Jennings Walker was sentenced to 450 YEARS in the Arkansas Department of Corrections.

53. Microsoft's use of this Law Enforcement tool named PhotoDNA to preform searches; working along side Law Enforcement agencies by utilizing, housing and maintaining this Law Enforcement tool named PhotoDNA for Law Enforcement; and allowing other ISPs and ESPs within the United States to utilize this Law Enforcement tool named PhotoDNA to search all communications and files ~~and~~ passing through computer networks within the United States for criminal activity, or suppose criminal activity, and when this Law Enforcement tool PhotoDNA ~~finds~~ finds such causes similarly situated persons like the Plaintiff Jonathan Jennings Walker to be searched, arrested, and prosecuted using the information obtained from the use of this Law Enforcement tool named PhotoDNA's search that was done without individual good faith reason or a warrant to do so and violating the privacy of ~~these~~ the Plaintiff Jonathan Jennings Walker and similarly situated persons.

54. Microsoft's use of this Law Enforcement tool named PhotoDNA to perform SEARCHES; working alongside Law Enforcement agencies by utilizing, housing, and maintaining this Law Enforcement tool named PhotoDNA for Law Enforcement; and allowing other ISPs and ESPs within the United States to utilize this Law Enforcement tool named PhotoDNA to scan every Citizen of the United States digital communications and files, for criminal activity, sent over the computer networks within the United States without individual good faith reasons or a warrant to do so, is a violation of the privacy of EVERY Citizen of the United States.

55. By Microsoft accepting funds from the State of Washington for Law Enforcement purposes, Microsoft was, and continues to be, acting under the Color of Law on April 28, 2020 when the Law Enforcement tool PhotoDNA preformed the illegal search, that resulted in Plaintiff Jonathan Jennings Walker's arrest, prosecution, and conviction, that was done on behalf of Microsoft.

56. By Microsoft accepting funds and grants from the United States Department of Justice and Department of Homeland Security, Microsoft was, and continues to be, acting under the Color of Law on April 28, 2020 when the Law Enforcement tool PhotoDNA preformed the illegal search, that resulted in Plaintiff Jonathan Jennings Walker's arrest, prosecution, and conviction, that was done on behalf of Microsoft.

57. As a Law Enforcement tool, PhotoDNA is used at all times under the Color of Law to preform automated SEARCHES.

58. Due to the Law Enforcement tool PhotoDNA being funded by governmental funds and grants that are used for Law Enforcement purposes, that are obtained through Microsoft, PhotoDNA is at all times acting under the Color of Law, an arm of Law Enforcement, and a Law Enforcement tool when ~~and~~ PhotoDNA preforms automatic searches.

59. By Microsoft housing, maintaining, and updating the Law Enforcement tool PhotoDNA for Law Enforcement agencies, Law Enforcement purposes, and with the help ~~and~~ of NCMEC, ICMEC, and the United States Department of Homeland Security's Project VIC, Microsoft and the Law Enforcement tool PhotoDNA are acting and used under the Color of Law.

V. LEGAL CLAIMS

60. Plaintiff, and Class Representative, Jonathan Jennings Walker Re allege and incorporate by reference paragraphs 1-59.

61. Defendant Microsoft's use of Defendant PhotoDNA - an automated Law Enforcement Expert system artificial intelligence tool - to automatically conduct searches of any and all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's along with similarly situated persons and all Citizens of the United States, without any individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, ~~not~~ violate and cause injury to the Plaintiff, and Class representative, Jonathan Jennings Walker's, along with similarly situated persons' and all Citizens' of the United States', individual rights, liberties, and immunities ~~under~~ of the 4th Amendment to the United States Constitution.

62. Defendant Microsoft's use of the Defendant PhotoDNA - an automated Law Enforcement Expert system artificial intelligence tool - to automatically conduct searches of any and all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons' and all Citizens' of the United States', without any individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons' and all Citizens' of the United States', individual rights, liberties, and immunities of the 14th Amendment due process clause to the United States Constitution.

63. Defendant Microsoft's use of Defendant PhotoDNA - an automated Law Enforcement expert system artificial intelligence tool - to automatically conduct searches of any and all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons' and all Citizens of the United States' without any individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violated and cause injury to the Plaintiff, and Class representative, Jonathan Jennings Walker's, along with similarly situated

persons' and all Citizens of the United States' individual rights, liberties, and immunities of Article 1 § 7 to the State of Washington Constitution.

64. Defendant Microsoft's use of Defendant PhotoDNA - an automated law enforcement ~~and~~ expert system artificial intelligence tool - to automatically conduct searches of any and all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker, along with similarly situated persons' and Citizens of the United States' without any individual good faith reasons or warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and ~~cause~~ cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons' and Citizens of the United States' individual rights, liberties, and immunities of Article 1 § 3 due process clause to the State of Washington Constitution.

65. Defendant Microsoft's use of Defendant PhotoDNA - an automated law enforcement expert system Artificial intelligence tool - to automatically ~~search~~ conduct searches of any and all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker, along with similarly situated persons' and Citizens of the State of Arkansas', without any individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons', and Citizens of Arkansas' individual rights, liberties, and immunities of Article 2 § 15 to the Arkansas Constitution.

66. Defendant Microsoft's use of Defendant PhotoDNA - an automated law enforcement expert system artificial intelligence tool - to automatically conduct searches of any and all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker, along with similarly situated persons' and Citizens of Arkansas', without any individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative,

Jonathan Jennings Walker's, along with similarly situated persons' and Citizens of Arkansas' individual rights, liberties, and immunities of Article 2 § 21 due process clause to the Arkansas Constitution.

67. Defendant Microsoft's use of Defendant PhotoDNA - an automated Law Enforcement Expert system artificial intelligence tool - to automatically conduct searches of all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons' and Citizens of the United States', without any individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons' and Citizens of the United States', & individual rights, liberties, and protections under the Federal Stored Communications Act - 18 USC § 2701 - 2713.

68. Defendant Microsoft's use of Defendant PhotoDNA - an automated Law Enforcement Expert system artificial intelligence tool - to automatically conduct searches of all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons', and Citizens of the United States', without any individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons' and Citizens of the United States', individual rights, liberties, and protections under the Federal Wire Tap Act - 18 USC § 2510 - 2523.

69. Defendant Microsoft's use of Defendant PhotoDNA - an automated Law Enforcement Expert system and Artificial intelligence tool - to automatically conduct searches of all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States', without individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' individual rights, liberties,

and protections under the Federal Prohibition on pen registers and trap and trace devices - 18 USC § 3121.

70. Defendant Microsoft's use of Defendant PhotoDNA - an automated Law Enforcement expert system artificial intelligence tool - to automatically conduct searches of all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's, along with similarly situated persons and Citizens of the United States', without individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' individual rights, liberties, and protections under the Federal Privacy Protection Law - 42 USC § 2000aa.

71. Defendant Microsoft's use of Defendant PhotoDNA - an automated Law Enforcement expert system artificial intelligence tool - to automatically conduct searches of all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States', without individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States', individual rights, liberties, and protections under the State of Washington's Law against violation of privacy - R.C.W. 9A.73.

72. Defendant Microsoft's use of Defendant PhotoDNA - an automated Law Enforcement expert system artificial intelligence tool - to automatically conduct searches of all communications and files that are sent from individual IP addresses of the Plaintiff, and Class Representative, Jonathan Jennings Walker's, similarly situated persons' and Citizens of Arkansas', without individual good faith reasons or a warrant to conduct such searches, Defendant Microsoft has, and continues to, violate and cause injury to the Plaintiff, and Class Representative, Jonathan Jennings Walker's, similarly situated persons' and Citizens of Arkansas', individual rights, liberties, and protections under Arkansas law on interception of digital communications and files - Ark Code 5-60-120.

73. Defendant PhotoDNA is an automated Law Enforcement expert system artificial intelligence tool that performs automated searches without a warrant or any good faith reasons to conduct such searches for possible, unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility, automatically creates a CyberTip and sends to Law Enforcement agencies, and allowing Defendant PhotoDNA to do so is a violation of, and ~~causes~~ causes injury to, the Plaintiff, and Class Representative, Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, and immunities of the 4th Amendment to the United States Constitution.

74. Defendant PhotoDNA is an automated Law Enforcement expert system artificial intelligence tool that performs automated searches without a warrant or any good faith reasons to conduct searches for possible, unconfirmed, criminal activity and if Defendant PhotoDNA finds a possibility, automatically creates a CyberTip and sends to Law Enforcement agencies, and allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons', and Citizens of the United States' rights, liberties, and immunities of the 14th Amendment Due Process Clause to the United States Constitution.

75. Defendant PhotoDNA is an automated Law Enforcement expert system artificial intelligence tool that performs automated searches without a warrant or any good faith reasons to conduct searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility, automatically creates a CyberTip and sends to Law Enforcement agencies; and allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons', and Citizens of the United States' rights, liberties, and immunities of ~~the~~ Article 1 § 7 to the State of Washington Constitution.

76. Defendant PhotoDNA is an automated Law Enforcement expert system artificial intelligence tool that performs automated searches without a warrant or any good faith reasons to conduct such searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility, automatically creates a CyberTip and

sends to Law Enforcement agencies; and allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, and immunities of Article 1 § 3 Due process Clause to the State of Washington Constitution.

77. Defendant PhotoDNA is an automated Law Enforcement expert system artificial intelligence tool that performs automated searches without a warrant or any good faith reasons to conduct such searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility automatically creates a CyberTip and sends to Law Enforcement agencies; and allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of Arkansas' rights, liberties, and immunities of Article 2 § 15 to the Arkansas Constitution.

78. Defendant PhotoDNA is an automated Law Enforcement expert system artificial intelligence tool that performs automated searches without a warrant or any good faith ~~reason~~ reasons to conduct such searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility automatically creates a CyberTip and sends to Law Enforcement agencies, and allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons', and Citizens of Arkansas' rights, liberties, and immunities of Article 2 § 21 Due process Clause to the Arkansas Constitution.

79. Defendant PhotoDNA is an automated Law Enforcement expert system artificial intelligence tool that performs automatic searches without a warrant or any good faith reasons to conduct such searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility automatically creates a CyberTip and sends to Law Enforcement agencies; allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States rights, liberties, and protections under the Federal Stored Communications Act - 18 USC § 2701-2713.

80. Defendant PhotoDNA is an automated Law Enforcement Expert system artificial intelligence tool that performs automatic searches without a warrant or any good faith reasons to conduct such searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility automatically creates a CyberTip and sends to Law Enforcement agencies; allowing Defendant PhotoDNA to do so is a violation ~~and~~ of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, and protections under the Federal Wire Tap Act - 18 USC § 2510-2523.

81. Defendant PhotoDNA is an automated Law Enforcement Expert system artificial intelligence tool that performs automatic searches without a warrant or any good faith reasons to conduct such searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility automatically creates a CyberTip and sends to Law Enforcement agencies; allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, and protections under the Federal Prohibition on pen registers and trap and trace devices - 18 USC § 3121.

82. Defendant PhotoDNA is an automated Law Enforcement Expert system artificial intelligence tool that performs automatic searches without a warrant or any good faith reasons to conduct such searches for possible ~~and~~ unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility automatically creates a CyberTip and sends to ~~the~~ Law Enforcement agencies; allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, and protections under the Federal Privacy Protection Law - 42 USC § 2000aa.

83. Defendant PhotoDNA is an automated Law Enforcement Expert system artificial intelligence tool that performs automatic searches without a warrant or any good faith reasons to conduct such searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility automatically creates a CyberTip

and sends to Law Enforcement agencies; allowing Defendant PhotoDNA to do so is a violation ~~and~~ of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, and protections under the State of Washington's Privacy Law - R.C.W. 9.73

84. Defendant PhotoDNA is an automated Law Enforcement expert system artificial intelligence tool that performs automatic searches without a warrant or any good faith reasons to conduct such searches for possible unconfirmed criminal activity and if Defendant PhotoDNA finds a possibility ~~creates~~ automatically creates a cyberTip and sends to Law Enforcement agencies; allowing Defendant PhotoDNA to do so is a violation of and causes injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of Arkansas' rights, liberties, and protections under Arkansas Code on interceptions of digital communications and files - Ark. Code 5-60-120.

85. Since Defendant PhotoDNA is a Law Enforcement tool used to search and flag the communications and files of the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' for unverified crimes, getting such Plaintiff, similarly situated persons, and Citizens of the United States arrested and prosecuted for these unverified crimes, the use of this Law Enforcement expert system artificial intelligence tool by Defendant Microsoft exceeds the Constitutional bounds guaranteed by the United States Constitution, State of Washington Constitution, and Arkansas Constitution.

86. Due to Defendant Microsoft, acting under the Color of Law, and Defendant PhotoDNA, being a Law Enforcement tool, having violated and caused injury to the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, immunities, and protections as guaranteed by the Constitution of the United States and under Federal laws, this 42 USC § 1983 Class Action is proper to redress such deprivations.

87. Defendant Microsoft conspired with Law Enforcement, agencies of Law Enforcement, NCMEC, Department of Homeland Security Project VIC, ICMEC, and other persons, institutions, and agencies to violate the Plaintiff and Class

Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, immunities, and protections as guaranteed by the Constitution of the United States and Federal Laws when Defendant Microsoft and those working in concert with conspired, planned, designed, created, and brought to life the Law Enforcement Expert system artificial intelligence tool PhotoDNA system to automatically search most communications and files that are passed through ISPs and ESPs within the United States without a warrant or any individual good faith reasons to perform such searches of the private property of Citizens of the United States, and thereby in so conspiring Defendant Microsoft has violated 42 USC §1985.

88. The Plaintiff and Class representative Jonathan Jennings Walker, similarly situated persons, and Citizens of the United States have no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff, and Class Representative, Jonathan Jennings Walker, similarly situated persons, and Citizens of the United States have been and will continue to be irreparably injured by the conduct of the Defendants unless this Court grants the declaratory and injunctive relief which the Plaintiff, and Class Representative, Jonathan Jennings Walker, the similarly situated persons, and the Citizens of the United States seeks.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, and Class Representative, Jonathan Jennings Walker, respectfully prays, on behalf of himself, similarly situated persons, and Citizens of the United States, that this Court enter judgement granting Plaintiff, and Class Representative, Jonathan Jennings Walker, similarly situated persons, and Citizens of the United States:

89. A declaration that the acts and ~~omissions~~ omissions described herein violated the Plaintiff and Class Representative Jonathan Jennings Walker's, similarly situated persons' and Citizens of the United States' rights, liberties, immunities, and protections under the Constitutions of the United States, State of Washington, Arkansas and the laws of the United States, Arkansas, and State of Washington.

90. A PRELIMINARY and permanent injunction ordering Defendant Microsoft to stop utilizing and allowing others to utilize the Law Enforcement expert system artificial intelligence tool PhotoDNA that is housed on the Microsoft Campus in Redmond

Washington, and at any other Microsoft datacenters, without a warrant or Court order to do such searches and in order to utilize this Law Enforcement expert system artificial intelligence tool PhotoDNA to perform such searches a warrant or Court order must first be obtained.

91. A preliminary and peremptory injunction ordering Defendant PhotoDNA, an automated Law Enforcement expert system artificial intelligence tool, to stop performing automatic searches of private communications and files of Citizens of the United States without a warrant or Court order to perform such searches and in order for Defendant PhotoDNA to perform such search a warrant or Court order must first be obtained.

92. Granting Plaintiff, and Class Representative, Jonathan Jennings Walker compensatory damages in the amount of \$45,000,000.00 against each Defendant jointly and severally.

93. Granting similarly situated persons compensatory damages in the amount of \$50,000 per year of incarceration, sentence, or loss of liberty and freedom, due to the use of this Law Enforcement expert system artificial intelligence tool, against each Defendant jointly and severally.

94. Granting the Citizens of the United States compensatory damages in the amount of \$5,000, per citizen of the United States, against each Defendant jointly and severally.

95. Plaintiff and Class Representative Jonathan Jennings Walker seeks for himself, similarly situated persons, and Citizens of the United States punitive damages in an amount of 1 to 5 times that of compensatory damages awarded per Plaintiff, similarly situated person, and citizen of the United States. Plaintiff and Class Representative Jonathan Jennings Walker, on behalf of himself, similarly situated persons, and Citizens of the United States seeks these punitive damages against each Defendant jointly and severally.

96. Plaintiff, and Class Representative, Jonathan Jennings Walker, on behalf of himself, similarly situated persons, and Citizens of the United States, also seek a jury trial on all issues triable by jury.

97. Plaintiff, and Class representative, Jonathan Jennings Walker, on behalf of himself, similarly situated persons, and Citizens of the United States, also seek recovery of their costs in this suit.

98. Any additional relief this Court deems just, proper, and equitable.

Dated this 6th day of April 2022.

Respectfully submitted,

Jonathan Jennings Walker

Jonathan Jennings Walker

406 South 5th Street

Arkadelphia, AR 71923

VERIFICATION

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under the penalty of perjury that the foregoing is true and correct.

Executed at Arkadelphia, Arkansas on the 6th day of April 2022.

Jonathan Jennings Walker

Jonathan Jennings Walker

Plaintiff and Class Representative